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Certificate  
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of Correction*

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**OFFICE OF PETITIONS**

In re Application of :  
Singh et al. : DECISION ON APPLICATION  
Application No. 10/072,220 : FOR  
Filed: February 8, 2002 : PATENT TERM ADJUSTMENT  
Atty Docket No. 9623/374 :  
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed January 5, 2005. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to seven (7) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred ninety-seven (7) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 27, 2004, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On January 5, 2005, applicants timely<sup>1</sup> submitted an application for patent term adjustment (with required fee). Applicants dispute the reduction of 110 days associated with their filing of a response to the Notice to File Missing Parts of Application mailed April 4, 2002. Applicants state that their response was received on

<sup>1</sup> PALM records indicate that the Issue Fee payment was also received on January 24, 2005.

July 8, 2002, and thus, the period of reduction should be 4 days, not 110 days. In support thereof, applicants submit a copy of their itemized return postcard date-stamped July 8, 2002.

Applicants state that a terminal disclaimer has not been filed in this application.

Applicants are correct. A review of the record reveals that the reduction of 110 days is not warranted. Applicants have shown that the response was received in the Office on July 8, 2002. Further, the response included a complete reply to the Notice. As such, the response was filed outside the three-month period under 37 CFR 1.704(b), but only by 4 days. Applicants did fail to engage in reasonable efforts to conclude prosecution of the application by delaying in replying to the Notice to File Missing Parts of Application mailed April 4, 2004, by 4 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is seven hundred ninety-seven (7) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Patent Publication has been advised of this decision. The Office has, thereby, forwarded the file to the Office of Patent Publication so that a patent can be issued. The patent term adjustment indicated on the patent will include any additional patent term accrued for Office delay in issuing the patent after the issue fee had been paid and all outstanding requirements met.

Petitioner is reminded that if an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See

35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



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Office of Petitions

Enclosure: Copy of Revised PAIR Screen